

REMARKS/ARGUMENTS

Claims 1, 2, 4-9, 11-22, 24, 25, 27, 28 and 30-34 are pending in this application.

Claims 1, 2, 4-9, 11-22, 24, 25, 27 and 28 have been rejected under 35 U.S.C 102(e) as being anticipated by Walter 2005/0156873.

In this application the Walter 2005/0156873 Application is cited by the Examiner as a 102(e) reference. However, Walter was only filed 8 days before the present application. Applicant herewith submits a Declaration Under 37 CFR 1.131 by the inventor, Remy Zimmermann, which establishes that the inventor conceived of the invention prior to the effective date of Walter 2005/0156873 Application, which is January 20, 2004. Evidence of Applicant's conception of the invention prior to January 6, 2004 is included, along with diligence in constructive reduction to practice of the invention by the filing of this application on January 28, 2004. Accordingly, Walter is no longer considered anticipatory art. Applicant submits that the rejection of claims 1, 2, 4-9, 11-22, 24, 25, 27, and 28 over Walter has been fully addressed. Reconsideration and withdrawal of this reference as a basis for the 35 U.S.C. 102(e) rejection is respectfully requested.

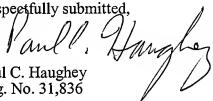
Claims 30-34 are rejected under 35 U.S.C 103(a) as being unpatentable over Walter 2005/015673 and Day 7,039,676. Because Walter is not prior art, as demonstrated by the attached Declaration, reconsideration and withdrawal of Walter as a basis for the 35 U.S.C. 103(a) rejection is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,


Paul C. Haughey
Reg. No. 31,836

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300
Attachments
PCH:rgy
61255530 v1